

CHAPTER 4

COLLECTIVE BARGAINING

COLLECTIVE BARGAINING

According to the Encyclopedia of Social Sciences “Collective bargaining is a process of discussion and negotiation between two parties, one or both of whom a group of persons is acting in consent. The resulting bargain is an understanding as to the terms and conditions under which a continuing service is to be performed..... More specifically collective bargaining is a procedure by which employers and a group of employees agree upon the conditions of work.”

Strictly speaking collective bargaining is a bipartite process, employers and employees are the only parties involved in the bargaining process. There is no third party intervention. The conditions of employment are regulated by those directly concerned. Collective bargaining is only that activity which is carried out between employers and their employees collectively.

ILO (1980) defines collective bargaining as an institutional procedure of joint determination of the rules to govern the terms and conditions of employment of the workers concerned and the labour management relations itself.

Collective bargaining is a technique adopted by the organisations of workers and employers collectively to resolve their differences without the assistance of a third party or the intervention of third party.

The phrase collective bargaining is made up of two words collective which means united or a group action and bargaining implies negotiating. So put together it means collective negotiation or group negotiation. The people involved in the negotiation are on one side the representatives of management and on the other the representatives of employees or unions.

HISTORY OF COLLECTIVE BARGAINING IN INDIA

Collective bargaining as a term came in existence and gained importance in the writings of Beatrice and Sydney. This movement started in Great Britain and found traces of its use as early as 1874 among coal miners. It has been used in different forms and has also undergone major modifications from time to time. It has acquired different characteristics and patterns in different countries.

As the process of industrialization started late in India the history of collective bargaining also is not very big compared to its history in developed countries specially Great Britain or USA. Collective bargaining in India gained ground only after independence, but it started very much before in the 1920's in the textile mills of Ahmedabad with the initiative of our great leader Mahatma Gandhi. The importance of collective bargaining came into existence when the unions realized that settlement of disputes through industrial courts was wasteful in terms of time, energy and money and also a hinderence to industrial peace and harmony.

The Royal Commission on labour in 1931 made it clear that collective in true sense was practiced only in the textile mills of Ahmedabad.

The first collective agreement was made by Dunlop Rubber Company in West Bengal in 1947, then came the Bata Shoe Company in West Bengal and in 1951, the Indian Aluminium Company made its five year agreement with employees union in Belur. The Imperial Tobacco company started with this concept in 1952 and by 1955 many big companies in India like Tata Iron and Steel Company, Hindustan Lever and many small companies started with this concept of collective bargaining. By the end of 1961, 49 companies involving 4.5 lakhs of employees had started this practice of collective bargaining as a tool for maintaining, peace and harmony in industrial organisations.

The history of collective bargaining in India shows that the practice of collective bargaining in true sense was done in private sector, no real attempt was made in public

sector except in the case of Indian Railways. In 1978, Bharat Heavy Electricals Limited made an experiment by workers representatives.

There has been very little legal support for the growth of this practice. Even after independence no legal provisions were made for the practice of collective bargaining. There is still no law which enforces the use of collective bargaining as a tool for the peace of industrial relations. The I.L.O. convention number 98 gives importance to the “Rights of Collective Bargaining”.

PRINCIPLES OF COLLECTIVE BARGAINING

Collective bargaining plays a vital role in settling and preventing industrial disputes. It is an important tool for maintaining industrial peace and so the responsibility of its proper implementation should be of both the employers as well as the employees. Collective bargaining should enable the union leaders to present to the management their demands and desires and also create a ground for the management to explain to the union leaders their problems and difficulties. There must be an honest attempt of solving problems and giving solutions to problematic issues. To make collective bargaining effective in practice, faith and confidence in each other should be developed. There should be respect for each other. The representatives of labour and management should be honest and behave with responsibility.

PRINCIPLES FOR MANAGEMENT

1. The management must periodically examine the rules and regulations which govern the labour force and the industrial relations this will promote the interest of the employees and thereby management will gain the goodwill and trust of its employees.
2. The management should give recognition to the unions without any reservations and must assume the workforce as a constructive and co-operative force in its organisation. This will elevate their status as well as their responsibility.

3. The management must develop and follows a realistic labour policy which should not only be accepted at all levels of the organisation but should also be implemented to support the effectiveness of collective bargaining.
4. Management must be involved in an organised effort and exercise to establish a strong and satisfactory relationship with the employees union and their representatives so the confidence level of the unions in the management increases which restricts the unions from doing anything drastic and one which is capable of disturbing industrial relations.
5. Management must make efforts to educate the unions or its members regarding the importance and advantages of collective bargaining. Management must make the employees understand that collective bargaining is not only a bargaining process but it also brings with it the understanding of flexibility and adjustment.
6. The management should recognize, notice, understand and solve the problems and grievances as soon as possible and at the level which the problem has taken place rather than the trade union bringing it to the notice of the management. This action of management not only save industrial relations from being complicated but also saves time and energy in long negotiations.
7. While bargaining with the unions the management should not only think from the point of economic considerations but should also have greater emphasis on social considerations. Consideration of economic and social view together will help the management to have a more rational and balanced negotiation.
8. The most important principle from the management point of view is that it should have the willing acceptance to recognize representative union for joint bargaining efforts and should also establish uniform conditions of employment with a view to avoid industrial disputes and maintain peace and harmony in the industry.

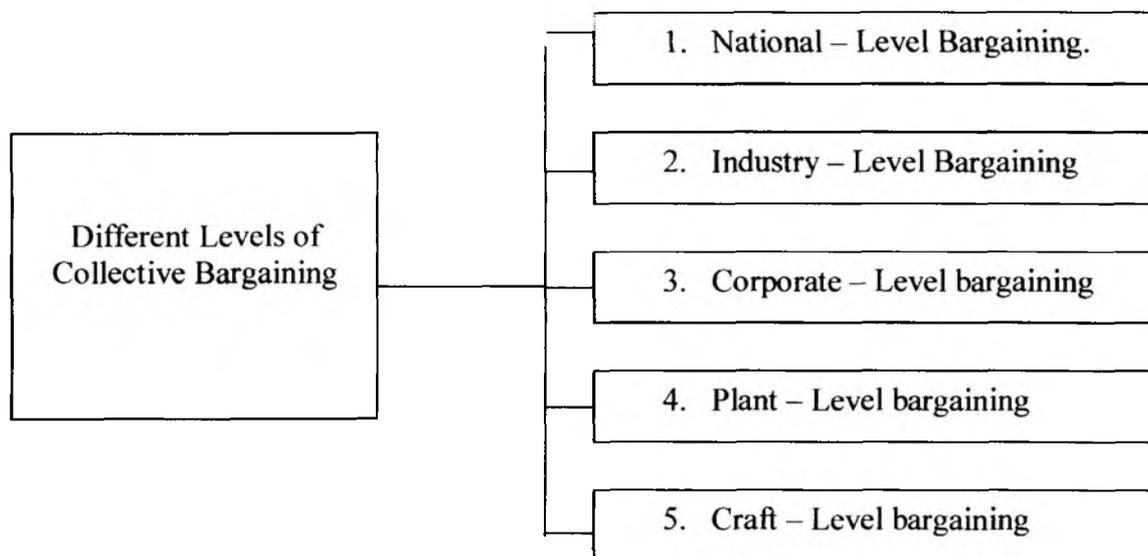
9. One of the principles to be implemented for establishing and promoting collective bargaining is to give voluntary recognition to the trade unions as one of the contracting parties. This will give a positive impact on improving industrial relations, production and productivity. Management must have the awareness of the nature of the union as a political institution operating in an economic environment.

PRINCIPLES FOR TRADE UNION

1. Trade union must understand the economic implications of collective bargaining and realize that the demands of the unions must be met from the income and resources of the organisation. Unions should not put undue pressure on the management.
2. If the trade unions have to see the complete promotion of collective bargaining it has to take complete efforts to eliminate undemocratic practices within their organisation.
3. The unions must have the responsibility and obligation to support the management in the elimination of waste and wasteful costs. It should give importance to improving productivity and quality of production. The union should make use of collective bargaining process to increase participation and improve working conditions. They should not confine collective bargaining for monetary benefits only.
4. Trade union must understand that it is a two way process and mutual give and take rather than take it or leave it method of settlement of disputes.
5. For a trade union collective bargaining should not be a competitive process but essentially a complementary process. Each party needs something which the other party has and each party has to give something which the other party needs.
6. As a principle the trade union should refrain from putting forward additional and exaggerated demands on the management. They should understand that collective bargaining is by nature a process of compromise and flexibility. Learning and implementing to adjust and accommodate is more constructive than conflicts and disputes. Unions should resort to strikes only when all other methods of settling disputes have failed to bring satisfactory results.

DIFFERENT LEVELS OF COLLECTIVE BARGAINING

Collective bargaining take place at different levels in India collective bargaining agreements have been taking place at five different levels.



The levels of collective bargaining vary from region to region, industry to industry and union to union. This makes the study of collective bargaining more complicated and interesting at the same time. When collective bargaining takes place at different level it also speaks of the culture, philosophies and attitudes of the management as well as of the unions.

NATIONAL – LEVEL BARGAINING

Collective bargaining at National level generally takes place between employer's organisation and the national union. The representatives from both sides come together to bargain on very important and basic issues At National Level bargaining issues can be wages, D.A., or shift allowances. When bargaining takes place at national level issues are accepted by all industries and by all industrial workers. The advantages of bargaining at this level is that there is uniformity and standardisation of wages and wage structure. It

avoids disputes and disparity. This level of bargaining is very much accepted when the size of the work force is small and homogenous. The problem with this type of bargaining is that it is not possible under Indian conditions because of the large size of the country and lack of homogeneity of the work force.

INDUSTRY LEVEL BARGAINING

When collective bargaining takes place at the industry level the employers organisations of one industry jointly bargain with unions in that industry. These unions are organized as industry federations on industry basis. The negotiations and bargaining include issues like basic wages, allowances, production capacity, production norms and working conditions related to that industry. Bargaining at industry level gives uniformity in labour cost and working conditions in one industry. Bargaining at industry level can also come in combination of industry and region wise. Many times industry level bargaining agreements are being supplemented by plant level agreements. Industry level bargaining over a period by time have become less effective because of the different levels of performance, different levels of technology and productivity and so standard wages and allowances are not possible as issues at industry-level bargaining.

The two tier bargaining or a combination of industry level and plant level bargaining has become a common practice in the steel and jute industry where industry level bargaining has been supplemented by plant level agreements. This has also been the case with Indian Banks Association (IBA).

CORPORATE LEVEL BARGAINING

Collective bargaining at corporate level takes place when the management of a corporate with multi-plant enterprise negotiates one agreement with various unions for all its plants. The collective bargaining is usually conducted by corporate management with its representatives from different plants. The advantage of corporate level bargaining is that it gives uniformity in its various establishments and avoids disputes which arises out of disparity. This type of collective bargaining is common in most public sector under

takings which have several establishments in various regions of the country for example. BHEL, HMT, ONGC.

When collective bargaining takes place at the corporate level with its multi plant structure there is always a possibility to neglect certain issues of prime importance at plant level. Further when this is done for large public sector units like HMT, ONGC or BHEL the management is not very free to negotiate specially in the Indian environment because they are restricted in their negotiation due to political interference, Bureau of Public Enterprises (BPE) and also by the ministry guidelines. The corporate management cannot enter into a genuine negotiation, at the same time many aspects relevant to various plants may not be taken into consideration. The above problems can become a major stumbling block in improving industrial relations.

PLANT LEVEL BARGAINING

Collective bargaining at plant level is very common with most of the private sector enterprises in India. Collective bargaining at plant level takes place between the management of particular plant or of a factory establishment. The issues are relevant to that plant or factory only. The basis and foundation of such negotiations are performance related or pay productivity linked. The other advantage of plant level bargaining is that negotiations take place independently. These negotiations can take the advantage of the difference in cost of living from region to region and thereby it can have a rational base for bargaining. It is for the above reasons many national level and corporate level bargaining are supported by plant level bargaining

CRAFT LEVEL BARGAINING

Collective bargaining at craft level is possible when an enterprise has many craft unions. Collective bargaining at craft level takes place between the representatives of the management and the representatives of the craft union. Collective bargaining at this level was very common in the early year of industrialization in many countries and is still common in U.S.A. In India it is not so common except for airlines industry like Air India and Indian Airlines where they have pilots association, engineers association, cabin crew

association and ground staff union. They have different agreements for different category of employees.

The advantage of craft level bargaining is that their representatives themselves to their problems and their job profile only and so they know exactly what are the difficulties and what should be demanded while entering into agreements through collective bargaining.

SOME PROBLEMS IN THE GROWTH OF COLLECTIVE BARGAINING

1. The main problem in the growth of collective bargaining is the right of the management. Management prerogative is a right or privilege of the management to do what it likes with the factors of production, men, material and money. The management does not support or like the idea of labour unions and their representatives in negotiating various issues. The modern concept of industrial relations as well as in socialist democracy labour is considered as a partner in business.
2. Another problem is posed by multiple unions. Multiple unions cause internal conflicts and rivalry. This trade union rivalry keeps aside the main issues of bargaining and there is more political interest than economic interest. Trade union rivalry gives the management a chance to take advantage of the situation and make employees agree to the terms that the management wants. A weak union may accept anything which the other union opposes for getting more popularity and for going against the other union. In the process economic issues are not included for collective bargaining.
3. The trade unions in India are affiliated to the political parties their close association with political parties have discouraged them from entering into agreements through collective bargaining. The general tendency of the political parties is to show their strength and put political pressure rather than collective bargaining and negotiations.
4. The law also does not enforce on collective bargaining for example even the Industrial disputes Act of 1947 the parties to the dispute may request the government to refer the matter to adjudication to which the government agrees. In fact the

government should educate the unions and their leaders to develop more faith in collective bargaining.

Though there are various difficulties in the growth of collective bargaining, it has made some progress in our country. Though collective bargaining look like an incompetent tool for maintaining good industrial relations it has no alternative. It is collective bargaining and workers participation in management that can increase the involvement of employees and increase their sense of responsibility through involvement. Collective bargaining is often regarded as a struggle between management and labour in which the management tries to give as little as possible and on the other hand the labour tries to get maximum as possible in the process of bargaining. While studying industrial relations in India and with special emphasis on collective bargaining one must make a study of the Indian economic, social and educational environment.

Today the Indian economy has started making an impact on the economy of other countries. There is growth in the Indian economy, exports have increased, foreign exchange reserves have gone up, service sector is progressing, Business Process Outsourcing. is creating employment in the economy, technology is being upgraded, quality standards in production is now of international level, income level has gone up, standard of living has gone up and educational standards have started making its mark globally. In this kind of a scenario for the Indian economy only a few types of bargaining shall give positive results.

Integrative bargaining is most suitable in the present situation of liberalized economy. Under integrative bargaining both the management and the union make a joint effort to give solutions to common problems. To improve labour management relations integrative bargaining should become a way of life. To make integrative bargaining more effective it should have continual efforts to improve relationship through regular discussions of problems and a solid effort to settle the problems without third party intervention. Under integrative bargaining difficult problems can be solved by establishing special communities whose members are from both the labour and management side. Looking at

the present economic situation and with an increase in the competitive level there is a need for concessions from both sides. Under integrative bargaining it is called as **CONCESSIONARY** bargaining in which the approach is joint problem solving by giving up things which they had earlier won. The other type of integrative bargaining suitable in Indian condition is the productivity bargaining.

PRODUCTIVITY BARGAINING

In this method of bargaining workers wages and benefits are linked to productivity. What is important in this type of bargaining is fixing the productivity index by the management and the representatives of the workers. Once the productivity index is fixed workers will try to achieve that level of productivity and once that level is achieved the management will give the workers the benefits as decided in the negotiations. In productivity bargaining management may further add on to the benefits or demands of the employees in the process of negotiations. Many times the management very skillfully explains the importance of productivity for growth and survival of the organisation which is taken seriously by the unions and therefore contribution to organisational needs comes first and then the demands of the unions.

COOPERATIVE BARGAINING

This is another type of bargaining suitable for Indian business environment. The Indian economy faces recession very often and then in such situations most of the companies cannot offer wages and other benefits as demanded by the employees. But at the same time to overcome situations of recessions employees are equally important, support for each other is also very important. Both parties realize the importance of survival in such difficult situations and are willing to negotiate the terms of employment in a flexible manner. Labour may sacrifice the benefits for want of job security in such situations and get the benefits when conditions improve. The present benefits sacrificed by employees the management may invest it in superior technology or in marketing efforts to overcome the problem situations and later distribute the benefits sacrificed by the employees in the past TELCO in Pune had resorted to cooperative bargaining in recent times to overcome recession in automobile sector.

COLLECTIVE BARGAINING AND NATIONAL COMMISSION ON LABOUR

In general there is a strong feeling that the National Commission on Labour is more in favour of collective bargaining. This point is proved when in 1969 it made a recommendation that the government intervention in industrial relations, particularly in the settlement of industrial disputes should be reduced gradually to the minimum possible extent. National Commission on Labour also states that compulsory adjudication of disputes should be used only as a last resort. Reducing the role of government in maintaining industrial relations also demands for collective efforts of management and the unions in maintaining good industrial relations. The other recommendation which says that compulsory adjudication of disputes should be the last resort also demands the collective efforts to solve the disputes and a rational bargaining procedure which can satisfy the demands of both the parties to the disputes the management and the unions must be implemented. The National Commission on Labour also gave importance to the role of Trade Unions in the process of collective bargaining making a legal provision either by a separate legislation or by amending in existing enactment for:

- Compulsory recognition of trade unions and certification of unions as bargaining agents.
- Bargaining in good faith by both employees and unions.
- Conferring legal validity and legitimacy on collective agreements.

Such provisions are there in the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act of 1972, but this Act is applicable only to Maharashtra there is a need to enforce this type of act to the whole of India. The National Commission on Labour also emphasis on the education of workers so that the unions have leaders from within the industries as this would reduce the dependence on political leadership of unions and thereby make collective bargaining more meaningful and problem related.

THE NATIONAL COMMISSION OF LABOUR ON COLLECTIVE BARGAINING

The recommendations of the 1st Labour(1969) on collective bargaining were

- 1.) In the absence of arrangements for statutory recognition of unions except in some States and provisions which required employers and a workers to bargain in good faith, it is no surprise that reaching of collective agreements has not made much headway in our country. Nonetheless, the record of collective agreements has not been as unsatisfactory as it is popularly believed. Its extension to a wider area is certainly desirable.
- 2.) There is a case for shift in emphasis and increasingly greater scope for and reliance on collective bargaining. Any sudden change replacing adjudication by a system of collective bargaining is neither called for nor is practicable. The process has to be gradual. A beginning has to make in the move towards collective bargaining by declaring that it will acquire primacy in the procedure of settling industrial disputes.
- 3.) Conditions have to be crated to promote collective bargaining. The most important among them is statutory recognition of a representative union as the sole bargaining agent. The place which strikes/lockouts should have in the overall scheme of industrial relations needs to be defined, collective bargaining cannot exist without the right to strike/lockout.

